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09/937,902	02/27/2002	Michael David Boyd	JHMJ.00015	7123

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James H Marsh  
Shook Hardy & Bacon  
One Kansas City Place  
1200 Main Street  
Kansas City, MO 64105-2118

EXAMINER

AMIRI, NAHID

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 11/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/937,902

Applicant(s)

BOYD ET AL.

Examiner

Nahid Amiri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 11-18 and 26-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 19-25 and 29-37 is/are rejected.
- 7) ☒ Claim(s) 10-18 and 26-28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the reference 102 on FIG. 1 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 8 objected to because of the following informalities: it is referring to claim 76 instead of claim 7. Appropriate correction is required.

Claims 11-18, 26-28 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim of 5 to 10, 4 to 11, 4 to 16 and 23 to 27. See MPEP § 608.01(n). Accordingly, the claims 11-18, 26-28 are not been further treated on the merits.

Claim 10 is objected to because of the following informalities: the word "aluminium" misspelled. Appropriate correction is required.

Claim 32 is objected to because of the following informalities: the phrase "of the lid" is been written twice. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The claims 1-10, 19-25, 29-37 are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For example in claim 36 "a

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hatch which is mounted to the lid in such a manner that the hinge is pivotable about an axis which is located outside of the plane of the lid and on a side thereof which is use is distal to the surface of the barrier”.

Regarding claims 1, 4, 19-21, 23, 29-30, 34, 36, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Regarding claims 10, 34 and 36, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claims 21 and 36, the phrase "seated on or closely" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "seated on or closely"), thereby rendering the scope of the claim(s) unascertainable.

Regarding to claims 4-5, the phrase "typically" and “preferably” renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "typically " and “preferably”), thereby rendering the scope of the claim(s) unascertainable.

Claim 29 is recites the limitation "the frame" in page 22, line 10. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-2, 19-20, 30 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No 6,265,662 B1 Riedy et al.

In regard to claims 1-2: Riedy discloses the claimed invention FIG. 1, column 1, line 53-63 and column 2, line 3-4, a floor 12 having a floor covering 32 and an opening 16 in the floor, the access panel including a floor frame 30 located in the opening 14, a lid 50 supported on the frame 30 and frame having a support flange 40 extending around its periphery wherein the support flange 40 extends between the floor covering 32 and the floor 12 and also flange provide a ramped edge.

In regard to claims 19-20: Riedy discloses the claimed invention FIG. 1, column 2, line 16-40, a frame 30 adapted to be connected in aperture 47 having a lid 32 a positioned within the frame 30 and pivotably movable relative to the frame between a lid 32 open position and a lid closed position, and locking means (hinge pins) 64 provided between the hatch and the frame such that when the lid is in the lid closed position the hatch will be locked against movement between the hatch open position and the hatch closed position irrespective of which of those positions it is in initially.

In regard to claim 30: Riedy discloses the claimed invention FIG. 1, column 2, line 3-20, an access panel 32 for insertion into an aperture 47 in a floor including a floor frame 30 defining a square or rectangular aperture 47 and wherein a closed well or trough 46 is extending continuously along the four sides of the aperture.

In regard to claim 34: Riedy discloses the claimed invention FIG. 1, column 2, line 16-40, lid 32 adapted to be seated in a frame 30 which include hatch 64 for locking the lid in the lid closed position within the frame.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-10, 21, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,265,662 B1 Riedy et al.

In regard to claims 3, 5-10, 21: Riedy discloses the claimed invention except the flange is formed in two abutting parts from different materials, an outer edge, a tapered flange and frame formed from a flexible polymeric material, frame formed from a rigid high strength material, an engineering grade plastic or a metal and die cast metal, zinc or aluminium. Riedy discloses column 1, line 64-65, the assembly 10 are formed of a metal material, such as brass, but may formed of any suitable plastic or composite material. It would have been obvious to one of ordinary skill in the art at the time of invention was made to have flange formed from two different materials or tapered flange and frame formed from a polymeric material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

In regard to claim 4: Riedy discloses the claimed invention except frame having a tapered outer edge or flange wherein the flange tapers substantially uniformly over a distance of at least 10 to 20 times the maximum thickness of the flange. Riedy discloses FIG. 1, column 1, line 53-65, frame 30 having a outlet box 14 and flange 40. It would have been an obvious matter of design choice to have taper outer edge, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

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In regard to claim 23: Riedy discloses the claimed invention except first and second bearing surface 30 and 32 configured in arcuate shape. Riedy discloses FIG. 1, and column 2, line 16-40, the frame 30 with lid 32 defined a hinge surface supported away from a wall of the frame 30 and lid being provided with detent means 64 adjacent the second bearing surface 32. It would have been an obvious matter of design choice to configure the bearing surface in a arcuate shape, since applicant has not disclosed having those in arcuate shape solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with Riedy's bearing surface.

Claims 22, 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riedy et al in view of UK Patent Publication GB 2229222 A Dorman Smith Holdings Limited.

In regard to claim 22: Reidy discloses the claimed invention except lid and hatch are joined together by an integral hinge. Holding Limited teaches FIG. 4, page 4-9, the lid 7 and a cam member (hatch) 9 joined together with integral hinge and engaged underneath the second surface of lid 7. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide lid with in integral hinge in order to make connection between lid and frame.

In regard to claim 24-25: Reidy discloses the claimed invention except and having a latch which engaged underneath the second bearing surface and latch include one or more C-shaped projection which engaged underneath the second bearing surface. Holding Limited discloses FIG. 4, latch 9 having a C-shaped which engaged underneath the second surface of lid 7. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide lid with C-Shaped hatch to close more tightly.

Claims 29, 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over UK Patent Publication GB 2229222 A Dorman Smith Holdings Limited.

In regard to claim 29, 35-37: Holding Limited discloses the claimed invention except the edges of lid and rib have been chamfered, panel made of metal or engineering grade polymer.

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Holding Limited discloses FIG. 1, cover page, access panel having a frame 1, lid 7, hatch 9 pivotally connected to lid 7 and is movable between an open position and close position. It would have been an obvious matter of design choice to provide the rib of the frame and lid having chamfered edge, since applicant has not disclosed that solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with rib and lid presented by Holding Limited, and also It would have been obvious to one of ordinary skill in the art at the time of invention was made to use metal or some other type of material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as matter of obvious design choice. *Ir re Leshin*, 125 USPQ 416.

*Allowable Subject Matter*

Claims 31-33 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art fail to provided the following applicant's claim invention of the lid having a latch which is supported in the open position between two or more pillars which have curved inner faces so as to define an expanding trumpet-shaped aperture for cables extending through the hatch, the lid sides are inwardly and outside of the panel and the edge of the lid has a slope of 30 to 45 degrees.




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*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 4,922,673      Ishii et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (703) 305-4241 and Fax number is 703-308-3686. The examiner can normally be reached on Monday-Friday from 8:00-5:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Carl Friedman can be reached at (703) 308-0839.

  
na

October 21, 2002

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600